



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable C. Simmons  
County Auditor  
Henderson County,  
Athens, Texas

Dear Sir:

Opinion No. 0-5112  
Re: Salaries of clerk and  
stenographer for County  
Judge of Henderson Coun-  
ty, Texas

Your request for opinion has been received and carefully considered by this department. We quote from your request as follows:

"Henderson County has a population of less than 37,500 and a valuation of 13 million dollars, operates under Officers Salary Law;

"What is the maximum salary that can be paid to stenographer or clerk for County Judge, what fund payable from?"

The population of Henderson County, Texas, according to the 1940 Federal Census, is 31,822 inhabitants.

Subdivision (a) of Section 13 of Article 3912e, Vernon's Annotated Texas Civil Statutes, applicable to counties having a population of twenty thousand (20,000) inhabitants or more and less than one hundred and ninety thousand (190,000) inhabitants, according to the last preceding Federal Census, provides:

"(a) The commissioners' court may authorize the employment of a stenographer by the county judge and pay for such services out of the general fund of the county to an amount not to exceed Twelve Hundred (\$1200.00) Dollars per year."

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Article 3902, Vernon's Annotated Texas Civil Statutes, reads in part as follows:

"Whenever any district, county or precinct officer shall require the services of deputies, assistants or clerks in the performance of his duties he shall apply to the County Commissioners' Court of his county for authority to appoint such deputies, assistants or clerks, stating by sworn application the number needed, the position to be filled and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts from fees, commissions and compensation to be collected by said office during the fiscal year and the probable disbursements which shall include all salaries and expenses of said office; and said court shall make its order authorizing the appointment of such deputies, assistants and clerks and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of said court may be proper; provided that in no case shall the Commissioners' Court or any member thereof attempt to influence the appointment of any person as deputy, assistant or clerk in any office. Upon the entry of such order the officers applying for such assistants, deputies or clerks shall be authorized to appoint them; provided that said compensation shall not exceed the maximum amount hereinafter set out. The compensation which may be allowed to the deputies, assistants or clerks above named for their services shall be a reasonable one, not to exceed the following amounts:

" . . . .

"2. In counties having a population of twenty-five thousand and one (25,001) and not more than thirty-seven thousand, five hundred (37,500) inhabitants, first assistant or chief deputy not to exceed Two Thousand Dollars (\$2,000) per annum; other assistants, deputies, or clerks not to exceed Seventeen Hundred Dollars (\$1700) per annum each. . . ."

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We quote from opinion No. 0-4776 of this department as follows:

"... the commissioners' court could authorize the county judge to appoint a clerk for such officer. See opinion No. 0-2242 of this department, a copy of which is enclosed herewith. Opinion No. 0-2242 applies to fee counties; but the rule is the same in salary counties except that in salary counties the salary of the county judge's clerk must be paid from the Officers' Salary Fund."

We enclose herewith for your information copies of Opinions Nos. 0-1874, 0-2242 and 0-4776, which may be of assistance.

You are respectfully advised that it is the opinion of this department:

1. The salary of a stenographer for the County Judge of Henderson County cannot exceed \$1200.00 per annum and must be paid from the general fund of the county.
2. The salary of a clerk for the County Judge of Henderson County cannot exceed \$1700.00 per annum and must be paid from the Officers' Salary Fund of the county.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

*Wm. J. Fanning*

Wm. J. Fanning  
Assistant

WJF:db

Enclosures

APPROVED FEB 26, 1943

*Gerard C. Mann*

ATTORNEY GENERAL OF TEXAS

